

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

----- x
GLENN STORMAN,

Plaintiff,

-against-

NEW YORK CITY DEPARTMENT OF EDUCATION,

Defendants.

**REPLY DECLARATION IN
FURTHER SUPPORT OF
DEFENDANT'S MOTION TO
DISMISS**

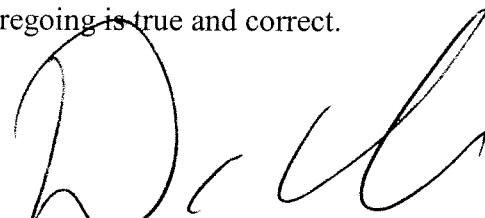
Docket No. 07 CV 5797 (SHS)

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I, DANIEL CHIU, hereby declare that:

1. I am an Assistant Corporation Counsel with the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendant New York City Department of Education ("DOE"). I am familiar with the matters set forth below.
2. This reply declaration is submitted in further support of Defendant's motion to dismiss the complaint in this action.
3. Annexed hereto as Exhibit "A" is a true copy of the Amended Complaint, dated September 20, 2007, filed by plaintiff in this action.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
October 12, 2007



Daniel Chiu

Exhibit A

JOHN C. KLOTZ (JK 4162)
The Empire State Building
350 Fifth Avenue, Suite 4810
New York, New York 10118-4810
(212) 630-2600

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

GLENN STORMAN

Index No. 07-CV-5797 (SHS)

Plaintiff,

AMENDED COMPLAINT

-against-

**PLAINTIFF DEMANDS
TRIAL BY JURY**

NEW YORK CITY DEPARTMENT OF EDUCATION,

Defendant.

-----X

Plaintiff GLENN STORMAN, for his Amended Complaint, alleges:

1. Jurisdiction and venue

1. This is an action pursuant to Title 42 of the United States Code, Section 1983 to redress the denial to Plaintiff by Defendant of protected liberty interests and rights without due process of law.

2. Jurisdiction is based upon the provisions 42 U.S.C. § 1983

3. Venue is based upon the location of defendant's principal office in the City, County and State of New York, within the Southern District.

2. Parties

4. Plaintiff is a resident of the City of New York, County of Richmond and State of New York.

5. Defendant New York City Department of Education (NYC DOE) is an agency of

the New York City government having its principal office at 52 Chambers Street in the City, County and State of New York.

3. *Color of State Law*

6. The Chief Executive of the NYC DOE is the Chancellor who executes the policies of the NYS DOE pursuant to the provisions of the N.Y.S. Education Law, the City Charter and the Rules and Regulations of the NYC DOE.

7. At all pertinent times, the Chancellor and the various other employees of the NYC DOE whose actions are described herein were acting in accordance with the scope of their employment by the NYC DOE under color of law by reason of grants authority from New York State and New York City.

4. *Protected liberty interests at risk*

8. For over 25 years Plaintiff has been employed by the New York City Board of Education and for the last 16 years he has been employed as a guidance counselor. During this time, Plaintiff has enjoyed an excellent reputation having earned the high regard of parents, students, his teaching colleagues and supervisors.

9. Plaintiff's tenure rights are vested in him by reason of the provisions of the New York State Education Law, the contract between Defendant and the his union, the United Federation of Teachers ("UFT") and rules, regulations and procedures promulgated by the defendant pursuant to its governmental power.

10. Among the rights and privileges afforded Plaintiff by the UFT Contract are "retention rights" which allows him to obtain and retain extra-assignments including assignment as a summer school teacher and as a Home Instructor pursuant to the Defendant's Home Instruction Program.

11. Plaintiff's vested rights of retention and his ability to pursue professional opportunities afforded him by his experience and previously unblemished reputation are all integral parts of his liberty that is protected by the United States Constitution.

12. Annexed hereto as Exhibit A is the Annual Professional Performance Review ("Annual Review") that rated Plaintiff "U" for Unsatisfactory, and Exhibit B, the decision of the

Chancellor's designee denied the appeal and sustained the rating "as a consequence of a substantiated incident of corporal punishment."

13. As a matter of fact and law, said finding of a "substantiated incident of corporal punishment" was not substantiated for there was no evidence at any point in the process that an incident of corporal punishment occurred.

Applicable Regulation

14. Annexed to this Complaint as Exhibit C is a copy of Regulation A-420 of the Chancellor. In pertinent part it defines Corporal Punishment as:

"2. Definitions:

"Regulations of the Commissioner §100.2(I)(3)(i) define corporal punishment as any act of physical force upon a pupil for the purpose of punishing that pupil. Such term shall not mean the use of reasonable physical force for any of the following purposes:

"1. to protect oneself from physical injury;

"2. to protect another pupil or teacher or any other person from physical injury (e.g. breaking up a physical altercation without using excessive force);

"3. to protect the property of the school or of others; or

"4. to restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school district functions, powers or duties, if that pupil has refused to comply with a request to refrain from further disruptive acts, provided that alternative procedures and methods not involving the use of physical force cannot be reasonably employed to achieve the purposes set forth in 1 through 3 above." (Emphasis supplied) Exhibit C: Regulation of the Chancellor, A-420, p. 1

15. The evidence before both the Principal who executed Exhibit A and the Chancellor's representative who signed Exhibit B does not support a determination of Corporal Punishment in that there was no evidence of any kind that Plaintiff committed an act of physical force for the purpose of punishing any pupil.

16. The actions Plaintiff took, which did not involve the use of physical force, were, in fact, intended to calm a situation where a teacher and her class were being disrupted by the acts of a student.

17. October 26, 2004, Plaintiff entered a classroom to obtain information about a student's attendance (Student X). In his hand, he had a rolled-up piece of paper concerning the attendance of Student X..

18. As he entered the classroom, Plaintiff became aware of a tumult in the classroom. A student ("Student A") was kneeling on a chair, cursing out a female substitute teacher and disrupting the class. He approached the Student A, and gesturing with the hand in which he had the piece of paper, told Student A to "Zip it."

19. Whereupon Student A, sat down and ceased his disruptive behavior.

20. Plaintiff did not touch Student A. In the alternative, if the paper in his hand touched Student A, it was entirely accidental and unintentional. No one in the room observed Student A touched by the paper and Plaintiff does not believe it happened. Such accidental touching, if it occurred, was slight and caused absolutely no harm or damage or injury of any kind to Student A.

21. Plaintiff regarded the incident as closed as he had accomplished his objective which was to help the substitute teacher restore order.

22. A few days later, the father of Student A was contacted by the principal of the school because of Student A's truancy. The father then claimed that Student A had been sexually assaulted by Plaintiff because he had inserted a piece of paper in Student A's mouth for the purpose of obtaining sexual pleasure.

23. That charge of inappropriate touching for sexual gratification was preposterous then and remains preposterous to this day.

24. On November 16, 2004, the father of the child met with the principal of the school and repeated the charge.

25. Likely to have evidentiary support after a reasonable opportunity for further investigation or discovery, Student A's father vigorously lobbied Plaintiff's supervisors to take strong action against Plaintiff and implicitly threatened legal action.

26. Thereafter an investigation was initiated by the Chancellor's Office of Special Investigations ("OSI") which reported a substantiated incident of corporal punishment. A copy of that report is annexed hereto as Exhibit D.

27. The investigating officer for OSI interviewed 9 students who witnessed the incident, including Student A. None of the student witnesses, except Student A, saw any touching of Student A by Plaintiff. They did confirm Student A's disruptive behavior. Student A dropped any claim that there was a sexual connotation to the incident. He was not in fact physically harmed, but stated he was "embarrassed."

28. Student H stated to the OSI investigator that Student A had told him that he would "get Mr. Storman." (Exhibit D, p. D-3)

29. No where in the report, does it state the cause of the embarrassment claimed by Student A and as a matter of fact, Plaintiff believes if there was any embarrassment, it was caused by Plaintiff telling Student A to stop his disruptive behavior rather than any alleged, accidental physical conduct.

30. Likely to have evidentiary support after a reasonable opportunity for further investigation or discovery, the investigating officer did not interview the substitute teacher who was in the classroom.

31. According the Report, Ms. Marcella stated that Plaintiff prepared a written statement that in which he made an admission that he had touched Student A's mouth with a piece of paper in an effort to quiet him. Plaintiff denies ever making such an admission and no such written statement is a part of this record.

32. The investigating officer later interviewed Plaintiff. No recording or transcript of the interview was made. A representative of the United Federation of Teachers (UFT), Plaintiff's union was present.

33. According to the OSI report:

"Mr. Storman stated that he went to Student A's class to pick up a student that he services. The class had a substitute teacher. Student A was talking in a disrespectful manner to the teacher and was cursing. He approached Student A and he was holding a rolled up piece of paper in his hand. He might have brushed the piece of paper against Student A's lips and told him to be quiet. Mr. Storman denied that his actions were sexual in any way. Mr. Storman further stated that in retrospect he should not have touched Student A with the piece of paper." (Emphasis added)

34. Plaintiff denies stating to the investigating officer that he might have brushed the piece of paper against Student A's lips.

35. At no time, was Mr. Storman afforded any opportunity during the investigatory process to confront Student A and question him in regards to his accusations.

36. The report concluded that:

"The allegation that Mr. Glen Storman placed a rolled up piece of paper into the mouth of Student A in a sexual manner is unsubstantiated. However, that Mr. Storman should not have made physical contact with Student A when he was reprimanding him."

37. The Report of the investigation was forwarded to Plaintiff's supervising principal, Ms. Josephine Marcella with the following notation:

"The Chancellor's Office of Special Investigations has completed its investigation into the allegations of corporal punishment against Mr. Glen Storman [sic], [Social Security Number deleted] Based on information and facts gained during the investigation, it has been determined that this matter is:

"SUBSTANTIATED:
"UNSUBSTANTIATED:

(Exhibit D, p. D-1)

38. The contents of said Report did not substantiate allegations of corporal punishment against Plaintiff. (See Report, Exhibit D, pp. D-2 to D-4)

39. On being advised the findings of the Report, Mr. Solomon, the UFT representative who was present, issued the following statement:

"The last statement, paraphrasing Mr. Storman regretting touching Student A, was taken out of context. He said that he may have moved towards him, and if he touched him with the paper in his hand, it was accidental." (See Ex. E, Transcript of Hearing, pp. 49-50)

40. Thereafter, in June, 2005, Exhibit A was issued rating Mr. Storman "U" [unsatisfactory] on account of "Substantiated Corporal punishment at P.S. 212" (Exhibit A)

41. In violation of DOE policy, the Review was not provided Plaintiff in a timely

manner. Thereafter, Plaintiff appealed his rating.

42. A hearing was held on his appeal on May 23, 2006. At that hearing both the investigating officer and the Supervising Principal admitted that Mr. Storman's conduct did not constitute corporal punishment. Exhibit E, p. 38-40.

43. IN addition, Mr. Storman's union representative argued that the "U" rating based on the investigatory report was improper because at no time was Mr. Storman afforded the opportunity of confronting his accuser. Transcript, Exhibit E, p. 52-53

44. A determination issued on August 14, 2006 denying Plaintiff's Appeal and sustaining his "U" rating on "as a consequence of a substantiated incident of corporal punishment." (See Exhibit B)

45. A timely Notice of Claim was served upon the Department of Education, the New York City Comptroller and the New York City Corporation Counsel on November 8, 2006. Said matter has not been resolved and no hearing held.

46. The determination that there was a "substantiated incidence of corporal punishment" is devoid of any legal or factual basis, and was based upon a procedure that denied Plaintiff fundamental constitutional rights including the right of confrontation and proof of wrongdoing by substantial evidence.

5. Injustice and damage to the Plaintiff

47. The finding that Plaintiff has been guilty of an incidence of corporal punishment is gravely damaging to Plaintiff both financially and professionally.

48. Until the finding of substantiated corporal punishment, Plaintiff had enjoyed an unblemished reputation as an able capable professional. Now, he will be forever marked by this finding and it will be a hindrance to him both as an employee of the DOE and in seeking employment in any other place.

49. In addition, Plaintiff has lost his vested retention right to earn income from the DOE both as a Summer School teacher and Per Session Home Instructor.

50. The reduction of income from his loss of Summer School teaching and Per Session Home Instructor will be compounded for decades because it will reduce his income

against which his pension will be calculated.

51. That by reason of the foregoing, Plaintiff has lost financial benefits for the year 2005 in the sum of \$23,000 and will lose financial benefits in excess of \$1,000,000 in future years, including a reduction of reasonably anticipated pension benefits.

52. Plaintiff performed no Home Schooling instruction and was denied appointment as a summer school teacher in 2007 because of his loss of retention rights.

6. Denial of Due process

53. The stigma of being found guilty of a "substantiated incident of corporal punishment" damages beyond repair Plaintiff's ability to pursue his chosen profession, in addition to denying him rights vested by the UFT Contract.

54. Said unsatisfactory rating and the reasons for it will be available for inspection by any future employer and within the school system should he be considered for reassignment at anytime.

55. The Fourteenth Amendment of the United States Constitution requires that in cases in which important liberty rights are implicated, that any deprivation of those liberty rights can only occur after notice and hearing and any adverse determination must be supported by a preponderance of the evidence.

56. The determination of the Defendant that the Plaintiff was guilty of a substantiated incident of corporal punishment is arbitrary and capricious.

57. Said determination is not supported by either a preponderance of the evidence or substantial evidence and is, in fact, devoid of any supporting evidence.

58. In addition, Plaintiff was denied the right to confront Student A and cross-examine him about his claims.

7. Claim For Relief

59. By reason of the premises aforesaid, Defendant acting under color of law has deprived the Plaintiff of his liberty rights and property without due process of law in violation of 42 U.S.C. § 1983.

60. By reason of the premises aforesaid, Plaintiff has been damaged in his property by reason of lost income and reasonably anticipated retirement benefits in the sum of \$1,000,000.

61. Defendant's actions has caused Plaintiff severe emotional distress and anxiety, caused him to lose sleep and suffer pain and anguish because of the threat to his continued employment and the destruction of his career and reputation.

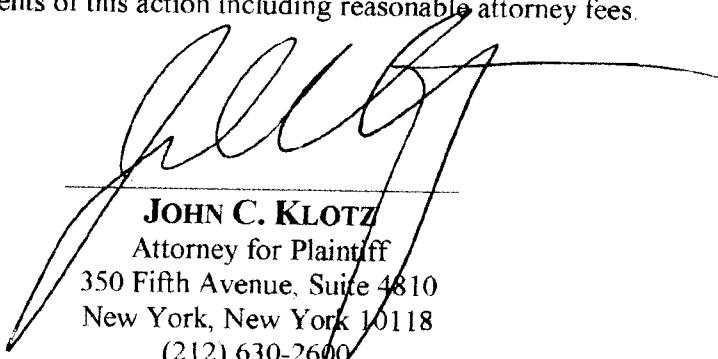
62. The actions of the defendant damaged Plaintiff's otherwise harmonious relationship with his wife, creating domestic friction, further causing and enhancing his emotional distress.

63. By reason of his emotional distress and damage to his marital relationship, plaintiff has been damaged in sum to be determined but not less than \$1,000,000.

64. By reason of the premises aforesaid the Plaintiff is entitled to judgment in the sum of \$2,000,000 together with the costs and disbursements of this action including reasonable attorney fees pursuant to 42 U.S.C. §1988.

WHEREFORE, Plaintiff prays that Court enter Judgment in the sum of \$2,000,000 together with the costs and disbursements of this action including reasonable attorney fees.

Dated: New York, New York
September 20, 2007



JOHN C. KLOTZ
Attorney for Plaintiff
350 Fifth Avenue, Suite 4810
New York, New York 10118
(212) 630-2600

TO: MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
100 Church St., Room 2-170
New York, NY 10007



NEW YORK CITY BOARD OF EDUCATION
DIVISION OF PERSONNEL
OFFICE OF APPEALS AND REVIEWS
65 Court Street, Brooklyn, New York 11201
BE/DOP 9955C (5/87) para d1 (Replaces OP 158)

**ANNUAL PROFESSIONAL PERFORMANCE
REVIEW AND REPORT ON PROBATIONARY
SERVICE OF GUIDANCE COUNSELOR**

EMPLOYEE'S FULL NAME GLENN STORMAN		LICENSE Guidance		FILE NUMBER 478435								
EMPLOYEE'S COMPLETE HOME ADDRESS (Number and Street) 136 Vassar St. Staten Island			APT. NO	SOCIAL SECURITY NUMBER 1 0 1 7 4 1 2 3 5 1 6 1 8								
CITY Staten Island		STATE N.Y.	ZIP CODE 10314	TENURED X	PROBATIONER SUBSTITUTE							
CURRENT SALARY RATE \$		FOR PROBATIONERS: Date of Appointment (Jerome Credit does not apply)			Date of Completion of Probation							
SCHOOL P.S. 153		BOROUGH Bklyn.		DISTRICT 21/7								
LATENESS*	FIRST YEAR			SECOND YEAR			THIRD YEAR			DAYS IN C.A.R.	OR BORROWED DAYS	SUBSTITUTE SERVICE NO. OF DAYS
	TIME NO.	TIME LOST		TIME NO.	TIME LOST		TIME NO.	TIME LOST				
		DAYs	HRs.		MIN.	DAYs		HRs.	MIN.			
LATENESS*	—	—	—	—	—	—	—	—	—	135		
ABSENCE* Exclude Non-Attendance	2	2	—	—	—	—	—	—	—			

* NOTE: For reports on probationers complete 1 to 3 years as applicable. For all other personnel use "First Year" to denote current year.

SECTION 1 - REPORT BY PRINCIPAL OR OTHER APPROPRIATE SUPERVISOR:

COMMENTS (as checked. "NA" indicates "Not Applicable.")		SATISFACTORIAL	UNSATISFACTORIAL	ADDITIONAL COMMENTS
A. PERSONAL AND PROFESSIONAL QUALITIES				
1. Attendance and punctuality				
2. Personal appearance				
3. Voice, speech and use of English				
4. Professional attitude and professional growth				IT
5. Sympathetic understanding of children				
6. Resourcefulness and initiative				
B. GUIDANCE ACTIVITIES				
1. Individual counseling with pupils				
2. Group counseling with pupils				
3. Individual staff development with teachers				
4. Group staff development with teachers				
5. Individual consultation with parents				
6. Group consultation with parents				
7. Preparation, maintenance and use of guidance materials				
8. Participation in school activities				
9. Participation in community activities				
10. Agency referrals				
C. GUIDANCE OFFICE MANAGEMENT				
1. Appearance and organization of office				
2. Records and reports				
3. Effective scheduling of time				
D. INTERPERSONAL RELATIONSHIPS				
1. Rapport with pupils				
2. Maintenance of good relations with teachers and with supervisors				
3. Effort to establish and maintain good relationships with parents				
4. Relationships with other pupil personnel workers				
E. ADDITIONAL REMARKS (additional sheets, signed and acknowledged may be attached):				
Substantiated Corporal Punishment at P.S. 212				

SECTION 2 - PERFORMANCE EVALUATION

OVERALL EVALUATION S, U, or D (D for first year probation only)	U	SIGNATURE OF PRINCIPAL (if other - give title)	ACKNOWLEDGMENT BY EMPLOYEE I have received this report on:		
For the period:					
From 9/04	to 6/05		6/30/05	DATE	09/07/05 <i>Glenn Storman</i> SIGNATURE OF EMPLOYEE

(Complete Reverse Side for Probationary Personnel Only)



THE NEW YORK CITY DEPARTMENT OF EDUCATION
JOEL I. KLEIN, Chancellor
OFFICE OF THE CHANCELLOR
52 Chambers Street - New York, NY 10007

August 14, 2006

*Chancellor's Committee
Ira Goldberg, Chairperson*

*Richard D'Auria, L.I.S., and Superintendent
District 21, Region 7
715 Ocean Terrace - Bldg. A
Staten Island, NY 10301*

*Carl Santa Maria, Principal
P.S. 153
1970 Homecrest Avenue
Brooklyn, NY 11229*

*Josephine Marsala, Principal
P.S. 212K
87 Bay 49th Street
Brooklyn, NY 11214*

*Glenn Stroman - File No. 478435
136 Vassar Street
Staten Island, NY 10314*

Dear Ms. Marsala and Gentlemen:

Please be advised that the appeal of Mr. Glenn Stroman from the rating of "Unsatisfactory" for the period ending June 2005 has been denied and the said rating is sustained as a consequence of a substantiated incident of corporal punishment.

Sincerely,

Andrés Alonso
Andrés Alonso
Deputy Chancellor,
Teaching and Learning
(as designee for Joel I. Klein, Chancellor)

AA:rs

c: *Gary Barton, Deputy Executive Director, Regional Field Services
Yvonne Kong, Director, Pedagogic Compensation
Genevieve Aloia, Teacher Records
Michael Grossman, Advisor, UFT*

EXHIBIT B: Chancellor's Determination



NEW YORK CITY DEPARTMENT OF EDUCATION

Regulation of the Chancellor

Category: STUDENTSNumber: **A-420**

Subject: PUPIL BEHAVIOR AND DISCIPLINE – CORPORAL PUNISHMENT

Pages: 1 of 5

Issued: 11/16/04

ABSTRACT

This regulation updates and supersedes Regulation of the Chancellor A-420, dated July 1, 2001, regarding prohibition of corporal punishment. It enforces Department of Education Bylaws and includes reporting requirements established under Regulations of the Commissioner §100.2(l)(3)(ii) concerning the use of physical force upon a student for punishment purposes. The Chancellor may change this Regulation consistent with applicable federal and state laws.

1. INTRODUCTION

Corporal punishment is prohibited. Disruptive behavior by a student must never be punished by use of physical force. Such behavior usually reflects underlying problems that require guidance intervention. School personnel should take steps to identify the problem(s) and, working closely with parents, help the student receive maximum benefit from the educational program offered at the school. Matters concerning student behavior should be addressed in accordance with Chancellor's Regulation A-443 and the Discipline Code.

2. DEFINITIONS

Regulations of the Commissioner §100.2(l)(3)(i) define corporal punishment as any act of physical force upon a pupil for the purpose of punishing that pupil. Such term shall not mean the use of reasonable physical force for any of the following purposes:

1. to protect oneself from physical injury;
2. to protect another pupil or teacher or any other person from physical injury (e.g. breaking up a physical altercation without using excessive force);
3. to protect the property of the school or of others; or
4. to restrain or remove a pupil whose behavior is interfering with the orderly exercise and performance of school district functions, powers or duties, if that pupil has refused to comply with a request to refrain from further disruptive acts, provided that alternative procedures and methods not involving the use of physical force cannot be reasonably employed to achieve the purposes set forth in 1 through 3 above.



NEW YORK CITY DEPARTMENT OF EDUCATION

Regulation of the Chancellor

Category: STUDENTSNumber: **A-420**

Subject: PUPIL BEHAVIOR AND DISCIPLINE – CORPORAL PUNISHMENT

Pages: 2 of 5

Issued: 11/16/04

Further, the Bylaws of the City Department of Education state the following:

**NO CORPORAL PUNISHMENT SHALL BE INFILCTED
IN ANY OF THE PUBLIC SCHOOLS, NOR PUNISHMENT
OF ANY KIND TENDING TO CAUSE EXCESSIVE FEAR
OR PHYSICAL OR MENTAL DISTRESS. VIOLATION
OF THIS BYLAW SHALL CONSTITUTE GROUNDS FOR
DISMISSAL.**

This Bylaw remains in full force and effect and cannot be waived by prior approval or consent of parent or guardian. Nothing in this Regulation, however, prevents a supervisor from counseling or disciplining an employee for inappropriate conduct that is not otherwise in violation of this regulation.

3. NOTIFICATION TO STAFF

The principal must bring to the attention of all members of the staff the Board's policy and rules with respect to corporal punishment.

4. REPORTING AN ALLEGATION OF CORPORAL PUNISHMENT

A. Report to the Office of Special Investigations:

Office of Special Investigations
49 Chambers Street – 6th floor
NY, NY 10007
Voice: (212) 374-5900
Fax: (212) 374-1229/0932

The Chancellor's Office of Special Investigations is responsible for intake, evaluation, review, follow-up, and dissemination of information to various offices within this agency and other appropriate entities with respect to allegations of corporal punishment. All allegations of corporal punishment of students by Department of Education employees, custodial employees, or others must be reported *immediately* to the Office of Special Investigations by the supervisor or designee.¹ Telephone communication must occur before an investigation is commenced by the supervisor or designee.

¹For purposes of this Regulation, "supervisor" means the person acting in a supervisory capacity to the Department of Education employee alleged to have engaged in corporal punishment. If the person who is alleged



NEW YORK CITY DEPARTMENT OF EDUCATION

Regulation of the Chancellor

Category: STUDENTSNumber: **A-420**

Subject: PUPIL BEHAVIOR AND DISCIPLINE – CORPORAL PUNISHMENT

Pages: 3 of 5

Issued: 11/16/04

At the time of the communication the supervisor will be advised whether to conduct an investigation or await an investigation by the Office of Special Investigations. Further instruction will be given with respect to completing the A-420/A-421 Form – Alleged Corporal Punishment and/or Verbal Abuse – Report of Investigation (see Appendix), and to whether the staff member who is alleged to have engaged in corporal punishment should be removed from the classroom pending further inquiry. If the supervisor is not the Principal or site supervisor and the alleged corporal punishment occurs on or around school property, the principal or site supervisor must be notified. The principal, in turn must notify the superintendent.

In the event the supervisor is instructed to conduct the investigation, the Office of Special Investigations will provide guidance and instruction at any stage of the inquiry, as needed.

In general, a supervisor should take the following steps, among others:

- Take written statements from the victim and all witnesses as quickly as practicable;
- Separate witnesses prior to taking such statements;
- Meet with the subject of the investigation and give him or her an opportunity to review statements from the victim(s);
- Evaluate all of the evidence and the credibility of all witnesses including the subject of the investigation before substantiating or unsubstantiating a complaint.
- The supervisor must reach and state a conclusion on the A-420/A-421 Form.
- During the course of the investigation, the employee should be removed from the classroom whenever appropriate to safeguard the health, welfare, and safety of students. In determining whether to remove a teacher, the supervisor should consider the prior record of the employee, the likely penalty should the allegations be substantiated, and any other factors relevant to this determination. An employee who has been removed from the classroom pending investigation shall be informed in writing of the nature of the investigation no later than five days after their removal.

to have engaged in corporal punishment is not an employee of the Department of Education, the "supervisor" is the person who is in charge of the site where the incident is alleged to have occurred.



NEW YORK CITY DEPARTMENT OF EDUCATION

Regulation of the Chancellor

Category: STUDENTSNumber: **A-420**

Subject: PUPIL BEHAVIOR AND DISCIPLINE – CORPORAL PUNISHMENT

Pages: 4 of 5

Issued: 11/16/04

- Supervisors should consult with OSI whenever technical assistance or other assistance is needed.

The A-420/A-421 Form, completed as instructed, and bearing an original signature of the site administrator, must be filed with the Office of Special Investigations no later than five working days from the report of the incident. However, a supervisor must complete his or her investigation and determine whether discipline is warranted even if he or she fails to file the report within five days. A duplicate of the A-420/A-421 Form must be forwarded to the Superintendent.

The A-420/A-421 Form (Alleged Corporal Punishment and/or Verbal Abuse – Report of Investigation) should be completed and transmitted by e-mail or fax to the Office of Special Investigations and the Superintendent. The accurate transmission of the completed form is the responsibility of the supervisor. If the A-420/A-421 Form is transmitted by e-mail, the principal must print, sign, and maintain a hard copy.

Whether the investigation is conducted by the Office of Special Investigations or the supervisor, the person alleged to have engaged in corporal punishment must be afforded an opportunity to appear with representation and address the allegations upon 48 hours written notice prior to any action being recommended or taken.

The Principal, in consultation with the Superintendent, and with the Office of Legal Services, or the Office of Appeals and Review must take appropriate action against any staff member found to be in violation of the above Bylaw and this Regulation.

When it has been concluded after an inquiry either by the supervisor or the Office of Special Investigations that the staff member has not committed corporal punishment, or the evidence does not support the allegation, the staff member must be so notified, in writing. If the employee was reassigned during the investigation and there is no other reason for reassignments, the employee must be returned to his or her regular assignment.

B. Report to the State

The Regulation of the Commissioner of Education regarding corporal punishment requires a semi-annual report to the Commissioner by January 15th and July 15 of each year. The report sets forth the substance of each complaint about the use of corporal punishment received by the local school authorities during the



NEW YORK CITY DEPARTMENT OF EDUCATION

Regulation of the Chancellor

Category: STUDENTS

Number: **A-420**

Subject: PUPIL BEHAVIOR AND DISCIPLINE – CORPORAL PUNISHMENT

Pages: 5 of 5

Issued: 11/16/04

report period, the results of each investigation and the action, if any, taken by the local school authorities in each case.

The Summary Corporal Punishment/Verbal Abuse Form is to be completed by December 15th and June 15th of each year. It is to be signed by the Principal and forwarded to the appropriate Superintendent for signature. The Superintendent is to forward the form to the Office of Special Investigations, Corporal Punishment Unit by December 30th and June 30th of each year.

5. INQUIRIES

Inquiries pertaining to this regulation should be addressed to:

Telephone
212-374-5900

Office of Special Investigations
NYC Department of Education
49 Chambers Street – 6th floor
NY, NY 10007

Fax
212-374-1229
212-374-0932

Form A-420/A-421
Page 1 of 5

OFFICE OF SPECIAL INVESTIGATIONS
 49 CHAMBERS STREET, 6th FLOOR
 NEW YORK, NEW YORK 10007
 PHONE# (212) 374-5900
 FAX# (212) 374-1229/0932/0993

**ALLEGED CORPORAL PUNISHMENT AND/OR VERBAL ABUSE
 REPORT OF INVESTIGATION**

Date of Report _____ Report Number _____
 (Obtained from Office of Special Investigations (OSI))
 (212) 374-5900

EMPLOYEE INFORMATION

Name _____ File Number _____
 Position _____ Social Security # _____
 Home Address _____
 Date of Birth _____ License(s) _____
 School _____ District _____ Boro _____ Region _____
 Years of Service _____ Prob _____ CPT _____ PPT _____ Per Diem _____
 Tenured _____

EMPLOYEE HISTORY

Prior Adverse Ratings/Actions Yes No If yes, explain, including date(s)

--	--	--	--

Previous Allegations of
Corporal Punishment or Verbal Abuse Yes No If yes, explain, including date(s) and Report number(s)

STUDENT (COMPLAINANT) INFORMATION

Name _____ Grade _____ Age _____

Date of Birth _____

Has student made prior allegations?
If yes, explain, including date(s) and report number(s)

Yes _____ No _____

Narrative of student performance (conduct, etc.)

PARENT/GUARDIAN CONTACT INFORMATION

Name _____

Address _____

Home Telephone _____

Business Telephone _____

Date Parent/Guardian notified of incident _____

School staff member who made contact _____

WITNESS INFORMATION

Name _____ Position _____

NOTE: If witnesses are students, on a separate sheet of paper, please list the students' names with the contact information for their parent(s)/guardian(s).

INCIDENT

If student and/or staff members made written statements, copies of the statements *must* be attached.

Date of Incident: _____ Time: _____
Location: _____

Description of Incident

After initial review of the incident, I concluded the following:

ACTION TAKEN

For investigations not conducted by the Office of Special Investigations, the following must be completed. If necessary, additional information can be included on a separate sheet of paper and attached.

____ The allegations were not substantiated. The subject was so advised by letter dated _____

OR

The allegations were substantiated.

In all cases where an allegation of corporal punishment and/or verbal abuse has been substantiated or where it has been concluded that poor judgment was used, disciplinary action must be taken.

TENURED STAFF

The subject is a Tenured teacher Tenured administrator

In the case of tenured teachers or tenured administrators, the punishment may include a verbal reprimand, letter of reprimand to file or charges under State Education Law §3020-a. If it has been determined that §3020-a charges might be warranted because of the serious or repetitive nature of the misconduct or other factors concerning the teacher's or administrator's performance, the Deputy Counsel, Administrative Trials Unit of the Office of Legal Services *must* be consulted. [(718) 935-3612]. Counsel should also be consulted if it is not clear what action may be appropriate.

The subject was verbally reprimanded on _____

(date)

The subject received a letter to file, a copy of which is attached, on _____

(date)

OR

The Office of Legal Services was consulted on _____

(date)

Upon consultation, a letter to file, a copy of which is attached, was recommended.

Upon consultation, a Technical Assistance Conference was scheduled for _____

(date)

Upon consultation, other action was recommended (Explain on a separate sheet)

NON-TENURED PEDAGOGUES AND OTHER STAFF

In the case of a substantiated allegation against a non-tenured pedagogue or other staff member, the Office of Appeals and Review [(718) 935-2991] *must* be consulted before any further action is taken.

The Office of Appeals and Review was contacted on _____

(date)

Upon consultation, a letter to file, a copy of which is attached, was recommended.

Upon consultation, the staff member was terminated on _____

(date)

Upon consultation, other action was recommended. (Explain on separate sheet and attach)

Form A-420/A-421
Page 5 of 5

Report preparer's signature _____ Title _____

Date prepared _____

Revised November 2004



THE NEW YORK CITY DEPARTMENT OF EDUCATION
JOEL I. KLEIN, Chancellor
OFFICE OF THE CHANCELLOR

TO: Ms. Josephine Marsella

FROM: Thomas Hyland
Deputy Director

SUBJECT: Mr. Glenn Stroman
Tenured Teacher, File # 478435
PS 212K/Region 76
Case # 04-7998CP

The Chancellor's Office of Special Investigations has completed its investigation into the allegations of corporal punishment against Mr. Glenn Stroman, SS# 0107-42-3568. Based on information and facts gained during the investigation, it has been determined that this matter is:

SUBSTANTIATED:

UNSUBSTANTIATED:

If this matter was substantiated a copy of this office's closing memorandum will be mailed to you for review and appropriate action. If this matter is unsubstantiated and the above named individual has been reassigned as a result of this investigation, please return him/her to service immediately.

Should you have any questions or need assistance, please call Confidential Investigator Dennis Boyles, at (212) 374-7835.



THE NEW YORK CITY DEPARTMENT OF EDUCATION

JOEL I. KLEIN, Chancellor
OFFICE OF THE CHANCELLOR

MEMORANDUM

DATE: February 9, 2005

TO: Thomas W. Hyland
Deputy Director

FROM: Dennis Boyles
Confidential Investigator

SUBJECT: Mr. Glen Storman
Guidance Counselor, Tenured Teacher, File # 478435
PS 212K/Region 7
Case # 047998

ORIGIN OF COMPLAINT

On 11/16/04, Ms. Josephine Marsella, Principal, PS 212K, contacted the Office of the Special Commissioner of Investigation and reported that Parent A contacted her and stated that she is not sending Student A, Male, DOB 04/10/04, to school because on 10/26/04, Mr. Storman approached Student A, and brushed a rolled up piece of paper against his lips. Parent A stated that Student A believes that Mr. Storman was acting out a sexual fantasy. OSCI referred case # 2004-2557 to OSI for investigation.

BACKGROUND

1. A search of the OSI database disclosed that Mr. Storman has one prior case for harassment, Case # 01-0774, which was unsubstantiated. He has no prior CPU, OIG or OPI cases.
2. Technician Lawrence, BCI, NYPD, advised that Mr. Storman does not have a criminal history.

RESULTS OF INVESTIGATION

On 12/14/04, Investigator Dennis Boyles responded to PS 212K. Ms. Josephine Marsella, Principal, File # 455034, was interviewed. She stated that on 11/16/04, that Parent A (father) called her and stated that he is not sending Student A, Male, DOB 04/10/04, to school because on 10/26/04, Mr. Storman approached Student A and brushed a rolled up piece of paper against his lips. Student A believes that Mr. Storman was acting out a sexual fantasy. Parent A indicated that he believed that Mr. Storman was "getting off" when he did this. Ms. Marcella further stated that when she spoke to Student A, he indicated that he was being disrespectful to a substitute teacher when Mr. Storman

entered the classroom. She spoke to Mr. Storman who prepared a written statement regarding the incident in which he made an admission to touching Student A's mouth with a piece of paper, in an effort to quiet him. Ms. Marsella contacted the Office of the Special Commissioner of Investigation and reported the incident. Ms. Marcella further stated that on 11/16/04, Student A's class had a substitute teacher and Mr. Storman was responding to the class to pick up another student that he services. Ms. Marsella further stated that all the students in the class are Special Education, learning disabled. Student A was not present the day OSI visited.

The following Students were selected randomly and were interviewed in the presence of Ms. Marcella.

Student B, Male, DOB 07/18/93, was interviewed and stated that on 11/16/04, Ms. Massad was a substitute teacher and was teaching his class. Student A was talking and when Ms. Massad told him to be quiet, Student A was disrespectful and was cursing at her. Mr. Storman came into the room and told Student A to be quiet and not to curse. He did not see Mr. Storman touch Student A with a piece of paper.

Student C, Male, DOB 09/24/93, was interviewed and stated that he had no knowledge of the incident.

Student D, Female, DOB 09/30/93, was interviewed and stated she does not remember the incident.

Student E, Female, DOB 07/28/93, was interview and stated she does not remember the incident.

Student F, Male, DOB 10/03/93, was interviewed and stated he does not remember the incident.

Student G, Male, DOB 07/07/93, was interviewed and stated he does not remember the incident.

Student H, Male, DOB 01/21/92, was interviewed and stated that on 11/16/04, Ms. Massad was a substitute teacher and was teaching his class. Student A was talking and when Ms. Massad told him to be quiet. Student A then spoke to Ms. Massad in a disrespectful manner and he cursed at her. Mr. Storman came into the room and told Student A to be quiet and not to curse. He did not see Mr. Storman touch Student A with a piece of paper. He further stated that he had a conversation with Student A in which Student A said he was going to get Mr. Storman in trouble.

Student I, Male, DOB 03/15/93, was interviewed and stated that on 11/16/04, Ms. Massad was a substitute teacher and was teaching his class. Student A was talking and when Ms. Massad told him to be quiet, Student A was disrespectful and was cursing at Ms. Massad. He did not see Mr. Storman do anything inappropriate to Student A.

On 12/15/04, **Student A, Male, DOB 04/10/94**, was interviewed in the presence of his father and Assistant Principal, Deborah Dellcomo. Student A admitted that on 11/16/04, he was talking in class and was disrespectful. Mr. Storman came into the class and approached him and brushed a piece of paper on his lips and told him to be quiet. Student A further stated that he does not believe that Mr. Storman's actions were sexual in nature. Student A, when questioned, stated that Mr. Storman did not hurt him, but that he was embarrassed at the time of the incident.

On 12/16/04, **Mr. Glen Storman, File # 478435**, was present at OSI with Mr. Arthur Solomon, UFT Representative. This investigator advised him of the allegation made by Student A. Mr. Storman stated that he went to Student A's class to pick up a student that he services. The class had a substitute teacher. Student A was talking in a disrespectful manner to the teacher and was cursing. He approached Student A and he was holding a rolled up piece of paper in his hand. He might have brushed the piece of paper against Student A's lips and told him to be quiet. Mr. Storman denied that his actions were sexual in any way. Mr. Storman further stated that in retrospect he should not have touched Student A with the piece of paper.

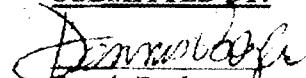
CONCLUSION

The allegation that Mr. Glen Storman placed a rolled up piece of paper into the mouth of Student A in a sexual manner is unsubstantiated. However, that Mr. Storman should not have made physical contact with Student A when he was reprimanding him.

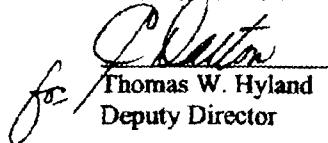
RECOMMENDATIONS

It is recommended that a copy of this report be forwarded to the Ms. Josephine Marcella, Principal, PS 212K, for whatever disciplinary action she deems appropriate.

SUBMITTED BY:


Dennis Boyles
Investigator

APPROVED BY:


Thomas W. Hyland
Deputy Director

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7 HEARING
8

9 OFFICE OF REVIEW AND APPEALS
10

11 DEPARTMENT OF EDUCATION
12

13 65 COURT STREET, ROOM 717
14

15 BROOKLYN, NEW YORK
16

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23
24 MAY 23, 2006
25

Angie DePompo
Court Reporting Service
686 Kensico Street
Staten Island, New York 10306
(718) 667-9484

1

2

2 MR. GOLDBERG: Today is Tuesday,
3 May 23rd, 2006.

4 Good afternoon. I am Ira Goldberg,
5 assigned chairperson of this Chancellor's
6 Committee.

7 An attendance sheet has been
8 circulated at 65 Court Street. The people
9 present today have signed their name.

10 Speaking to us from their school is
11 Josephine Marcella (phonetic), principal
12 of PS212, and Carl Santamaria, principal
13 of PS153.

14 It is now approximately 1:25 p.m. on
15 Tuesday, May 23rd, 2006. We are meeting
16 pursuant to Article 4, Section 4.3.3,
17 formerly 5.3.4, to review the appeal from
18 a rating of unsatisfactory given by
19 Principal Carl Santamaria to Mr. Glenn
20 Storman, the appellant, who is a guidance
21 counselor at PS153 and PS212, for the
22 period ending June, 2005. The appellant
23 is presently employed as a guidance
24 counselor.

25 I will now ask each of you to

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identify yourselves for the record, and
state the capacity in which you are here
today.

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MR. BOYLES: Dennis Boyles,
confidential investigator, Chancellor's
Office for Special Investigations.

8

9

MR. GOLDBERG: Would you speak up,
please.

10

11

MR. STORMAN: Glenn Storman and
counselor.

12

13

MR. GROSSMAN: Michael Grossman, the
appellant's advisor.

14

15

16

MR. GOLDBERG: Ira Goldberg,
Chancellor's assigned chairperson for this
review.

17

The principals, please.

18

19

MR. SANTAMARIA: Carl Santamaria,

PS153.

20

21

MS. MARCELLA: Josephine Marcella,

PS212.

22

23

MR. GOLDBERG: Okay. We will now go
off the record to review the documents.

24

(Whereupon, a break was taken.)

25

MR. GOLDBERG: We are now back on

1

4

2 the record.

3 I will briefly outline the procedures
4 we will follow this afternoon.

5 The entire session is recorded.

6 Proper protocol is to be adhered to at all
7 times to facilitate this process. You are
8 asked to be an active listener. Kindly
9 use appropriate voice tone and level. You
10 may request to go off the record at any
11 point.

12 The UFT advisor will be asked to
13 present any procedural objections. I will
14 respond to each objection by denying or
15 sustaining the objections.

16 The reigning officer will be asked to
17 make a statement or stand on the record.

18 Each member of the administration may make
19 a statement as well.

20 The UFT advisor may cross-examine the
21 rating officer and any member of the
22 administration who makes a statement.

23 The appellant or his advisor will be
24 asked to make a statement. The reigning
25 officer may question the appellant, but

1
2 only through the chair. The reigning
3 officer may make a final statement or
4 stand on the record.

5 The UFT advisor will make the final
6 statement.

7 Please be advised that a copy of this
8 proceeding can be obtained at a nominal
9 cost.

10 We will now -- does everyone have the
11 documents?

12 MS. MARCELLA: I don't have mine.

13 MR. GROSSMAN: Still waiting for
14 mine.

15 MR. GOLDBERG: Okay. We will go off
16 the record for a minute.

17 (Whereupon, a break was taken.)

18 MR. GOLDBERG: We are back on the
19 record now. I would like to ask the UFT
20 advisor if there are any procedural
21 objections.

22 MR. GROSSMAN: Yes, I have. I have
23 a procedural objection to the rate sheet.
24 You'll note that the -- while the
25 principal may have signed off on this June

1
2 30th, this was not given to Mr. Storman
3 until September 7th of 2005, which is well
4 after the rating period and also in
5 violation of Section 89 of the
6 Chancellor's Regulation, which I'll read
7 it for the record. It says as follows,
8 the mandate for the evaluation of
9 employees and the timing thereof is
10 contingent to Section 89.
11
12 Subdivision 7 is what counts for Mr.
13 Storman. It says in Subdivision 7, within
14 the last ten school days of each school
15 year, but not fewer than four school days
16 prior to the close thereof, the principal
17 of each school shall give to each member
18 of his or her staff a signed statement
19 characterizing his or her work as
20 satisfactory or unsatisfactory. This was
21 not done during the last ten school days,
22 not even the last four days, which would
23 be a technicality, but this is beyond
24 technicality because this was given to him
25 the next term or the next school year,
26 which was September 7th of 2005.

1
2 MR. GOLDBERG: Was there any reason
3 why there was a delay in giving the rating
4 sheet?

5 MR. SANTAMARIA: There was a
6 clerical error in the distributing of the
7 rating sheets.

8 Mr. Storman was told about the rating
9 on June 29th, and he did receive certified
10 mail, return receipt requested, on the 2nd
11 day of summer school, the actual rating,
12 on July 6th.

13 MR. GOLDBERG: July what?

14 MR. SANTAMARIA: 6th.

15 MR. GOLDBERG: Okay.

16 MR. GROSSMAN: There is no proof of
17 this.

18 MR. GOLDBERG: Do you have a copy of
19 that?

20 MR. SANTAMARIA: I have the return
21 receipt request little receipt. Fax that?

22 MR. GOLDBERG: You'll fax that to
23 935-2073.

24 MR. SANTAMARIA: 935-2073.

25 MR. GROSSMAN: (Inaudible) that is

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8

2 late, in terms of July, but whether it's
3 July or September, it doesn't make a
4 difference.

5 MR. GOLDBERG: The rating sheet is a
6 legal document. According to the rating
7 officer, the principal, there was a delay,
8 and it did go out at the beginning of
9 July, and there's postal return receipt
10 proof that it was mailed. It was signed
11 off by Mr. Storman on September 7th.

12 Your objection is noted for the
13 record, but it is denied.

14 MR. GROSSMAN: Okay. I have an
15 objection to document number 2. This is
16 from Thomas Hylan (phonetic) to Josephine
17 Marcella. It is a third-party letter, and
18 also, it is undated.

19 MR. GOLDBERG: If you look on page
20 2.1, the memo is dated February 9th, 2005.

21 MR. GROSSMAN: It's not really the
22 same -- it's not really the same document.
23 In other words, technically speaking, this
24 should be treated as a separate document
25 because one, there's two Thomas Hylan, and

1

9

2

the other one is twelve Thomas Hylan. So,
if we treat this as a separate document,
then I'm objecting to this as a separate
document. Not to the entirety.

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9

MR. GOLDBERG: This is a summary
page, saying that the investigation has
been completed, and it's attached to this
document.

10

11

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13

MR. GROSSMAN: All right, but,
however, it is undated, though. In other
words, this is another memo that was sent.
It is not the same memo.

14

15

MR. GOLDBERG: But it is referring
to the OSI report that is attached.

16

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MR. GROSSMAN: Yes, but, however, we
should know the date because if it's --
suppose, let's say, this was given after
April, then it would be more than six
months. The statute of limitations is six
months for anyone from the Chancellor's
Office, in terms of handing out a
document.

24

25

MR. GOLDBERG: The actual report is
dated February 9th, --

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2 MR. GROSSMAN: Not the actual
3 report.

4 MR. GOLDBERG: -- which is attached.

5 MR. GROSSMAN: Okay, but I would
6 like it noted for the record that this
7 memo to Ms. Marcella was not dated.

8 MR. SANTAMARIA: SOB and OSI is that
9 going to go out either before February 9th
10 or on February 9th with the report. So,
11 it's a typographical error on my part, but
12 it certainly was done on or before
13 February 9th, 2005.

14 MR. GOLDBERG: Your objection is
15 noted for the record, Mr. Grossman.

16 MR. GROSSMAN: I'm curious. How
17 could that be done before February 9th if
18 the memorandum itself is dated February
19 9th?

20 MR. SANTAMARIA: Normally, when we
21 substantiate a case, okay, if the teacher
22 is reassigned, there is a period of time
23 to conclude your investigation from the
24 time you actually, you know, finish typing
25 your report, --

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MR. GROSSMAN: Okay.

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MR. SANTAMARIA: -- and if a teacher

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is reassigned and the case is not

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substantiated, we'll send it out to

6

expedite the teacher getting back to the

7

classroom as soon as possible, but if the

8

case is going to be substantiated, we

9

advise him that the case is substantiated

10

and a report is to follow.

11

MR. GROSSMAN: We'll concede what

12

Mr. (inaudible) this.

13

MR. SANTAMARIA: Thank you.

14

MR. GOLDBERG: Any other objections?

15

MR. GROSSMAN: No.

16

MR. GOLDBERG: I call on the

17

administration to make a statement or

18

stand on the record, and I will ask --

19

afterwards, I would also ask Mr. Boyles to

20

give a statement regarding the report.

21

I'll call on the principals first, if

22

they would like to make a statement for

23

the record or stand on the record.

24

MR. GROSSMAN: They don't know who

25

goes first.

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MR. GOLDBERG: Okay, let's define

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that.

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MS. MARCELLA: Can you explain what

you're saying, please, --

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MR. SANTAMARIA: Yes, what does that

mean exactly?

8

9

MS. MARCELLA: -- because it's very

difficult to understand you.

10

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16

MR. GOLDBERG: Okay. Ms. Marcella,

I would like you to make a statement for

the record regarding why this pedagogue

was given an unsatisfactory rating. Why

are we here today? You know, why did you

rate Mr. Storman unsatisfactory in June,

2005?

17

18

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MS. MARCELLA: Okay. I rated Mr.

Storman unsatisfactory because, although I

did not conduct the investigation, I did

sit in with Mr. Boyles, and the conclusion

of his investigation was that it was

substantiated for corporal punishment.

23

24

Then, I met with Mr. Storman, with

his union rep, and I wrote him a letter.

25

Do you have the letter that Mr.

1

13

2

Storman received? It is dated March 11th,
2005.

4

MR. GOLDBERG: No. No, you never
submitted that with the file.

6

MS. MARCELLA: I submitted
everything, sir.

8

MR. GOLDBERG: No, we do not have
that letter.

10

MS. MARCELLA: Okay. Do you want me
to fax it over to you?

12

MR. GOLDBERG: No, not at this time.

13

It's okay.

14

MS. MARCELLA: All right. That was
in the package, though, everything I had
to submit.

17

MR. GOLDBERG: Do you want to refer
to why you -- what kind of a letter and
what it was? You can do that in oral
testimony.

21

MS. MARCELLA: Well, do you want me
to read it?

23

MR. GROSSMAN: I will object to
that. She can refer to it.

25

MR. GOLDBERG: You can refer to it.

1 I mean, --

2 MS. MARCELLA: Okay.

3 MR. GOLDBERG: -- you know,
4 basically what it was.

5 MS. MARCELLA: All right. I --
6 basically, what happened was, when this
7 incident occurred in October, I had asked
8 Mr. Storman at that time if he wanted to
9 fill out a statement form, which is done
10 on a current sheet, and he did, and part
11 of his statement was that, he writes and I
12 quote, I may have touched the child's
13 mouth with the paper and walked away.

14 When I read Mr. Boyles' statement,
15 Mr. Storman -- and I quote from Mr.
16 Boyles' --

17 MR. GOLDBERG: Report.

18 MS. MARCELLA: -- from his report,
19 it says, I quote, Mr. Storman further
20 stated that in retrospect he should not
21 have touched student A with the piece of
22 paper.

23 So, in my letter, I wrote -- I spoke
24 to Mr. Storman with his union

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15

2

representative, and he stated that he did
3 touch the student with the piece of paper,
4 and this is not acceptable. There should
5 not be any contact with the student. He
6 could have verbally reprimanded the child.

7

So, because it was substantiated by
8 Mr. Boyles, and because of what Mr.
9 Storman wrote about, may have touched the
10 child and walked away, and then in
11 retrospect should have not touched the
12 child with the paper, he is admitting that
13 he did touch the child, and there should
14 not be any physical contact.

15

16

17

So, my reasoning for giving him a "U"
rating is because of substantiated
corporal punishment.

18

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20

Now, my -- also, I would like on the
record that I did report this to Mr.
Santamaria at the beginning of June.

21

MR. GOLDBERG: Thank you.

22

23

24

Mr. Santamaria, any statement for the
record? Any statement or stand on the
record?

25

MR. SANTAMARIA: I guess -- no, not.

1
2 really. I stand on the record.

3 MR. GOLDBERG: I would like to ask
4 Mr. Boyles, from the Office of Special
5 Investigators, if you would like to make a
6 statement for the record?

7 MR. BOYLES: Yes. I interviewed --
8 I responded to the school after being
9 assigned this investigation, and the
10 initial complaint went to the Special
11 Commissioner of Investigations, which
12 referred it to my office for
13 investigation.

14 The original complaint was from the
15 boy's father, who indicated he believed
16 that the physical contact made by Mr.
17 Storman was sexual in nature, that he was
18 having a sexual fantasy when he did this.

19 I spoke to several students at the
20 school, who were all special education
21 students. It is my experience a lot of
22 times special education students have a
23 hard time remembering incidents of this
24 nature.

25 Student A indicated that Mr. Storman

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17

2 rolled up a piece of paper and touched him
3 on his face with it, and the student
4 admitted at the time that he didn't think
5 it was sexual in nature.

6

7 Mr. Storman, based on his written
8 statement and the conversation I had with
9 him, where he said he might have touched
10 the kid when he was motioning for him to
11 be quiet because he had a piece of paper
12 in his hand, based on that, I
13 substantiated for inappropriate touching,
14 and I forwarded the report to Ms.

15

Marcella.

16

MR. GOLDBERG: Thank you.

17

MS. MARCELLA: May I say something
else?

18

MR. GOLDBERG: Yes.

19

MS. MARCELLA: Okay.

20

MR. GOLDBERG: Yes.

21

MS. MARCELLA: Oh, I can?

22

MR. GOLDBERG: Yes.

23

MS. MARCELLA: Oh, okay. I just
wanted to mention that because I am not
24
25 Mr. Storman's payroll school, the

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18

2

principal of the school, that's why I
could not give him his rating sheet.

4

MR. GOLDBERG: I understand. We
understand that.

6

MS. MARCELLA: Okay.

7

MR. GOLDBERG: Okay, thank you.

8

I would like to call on the UFT
advisor, Mr. Grossman, to question the
administration or --

11

MR. GROSSMAN: Yes, right. I'm

12 going to do everybody.

13

MR. GOLDBERG: Of course.

14

MR. GROSSMAN: Okay. Mr.

15

Santamaria, can you hear me okay?

16

MR. SANTAMARIA: Yes.

17

MR. GROSSMAN: Okay. When you rated
18 Mr. Storman unsatisfactory, was that based
19 upon a conclusion on the part of Ms.
20 Marcella that corporal punishment was
21 committed?

22

MR. SANTAMARIA: Correct, yes.

23

MR. GROSSMAN: Okay, but, however,
24 did you see any documentation at all from
25 that charge or just based it upon Ms.